



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
1455 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94103-1398

AUG 19 2010

Regulatory Division

SUBJECT: File Number: 2008-00160S

Peter R. Baye, Ph.D.
Post Office Box 65
Annapolis, California 95412

Dear Dr. Baye:

This letter is written in response to concerns raised in your memorandum dated February 2, 2010, regarding activities within Cargill Inc, (Cargill) salt ponds in Redwood City, San Mateo County, (ponds 9, 9a, 8e, and 4), and in Newark, Alameda County, (pond 13). Thank you for the information you provided. The U.S. Army Corps of Engineers (Corps) regulates the discharge of dredged and fill material into waters of the United States under Section 404 of the Clean Water Act, 33 U.S.C. § 1344, and work or structures in or affecting the navigable waters of the United States under Section 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. § 403. This letter summarizes the results of our initial investigation pursuant to 33 C.F.R. § 326.3(b).

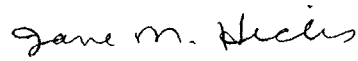
We have reviewed the information you provided regarding "earth-moving activities". We requested and received additional information from Cargill on April 13, 2010. Cargill's information states that the described activities are salt-harvesting activities.

The Corps has not regulated salt-harvesting activities and, at present, does not intend to regulate those activities. Given the fact, that we have not previously regulated salt-harvesting, we have determined that the activities in your memorandum do not warrant further investigation or an enforcement action. In a letter dated April 14, 2010, the Corps issued a preliminary jurisdictional determination to Cargill that indicated that the salt ponds at Cargill's Redwood City site are presumed to be "waters of the United States" for the purposes of processing an application for a Department of the Army permit. That potential permit application is for work distinguishable from the salt-harvesting activities within the salt ponds.

A permit for continued operation and maintenance activities within Cargill's properties has been proffered. Thus, we have determined it would not be appropriate to devote additional limited resources and staff time to further investigate activities enumerated in your memorandum. The decision is consistent with discretionary enforcement authority outlined in 33 C.F.R § 326.1.

Should you have any further questions regarding this matter, please call Paula Gill of our Regulatory Division at (415) 503-6776. Please address all correspondence to the Regulatory Division and refer to the File Number at the head of this letter.

Sincerely,

A handwritten signature in cursive script that reads "Jane M. Hicks".

Jane M. Hicks
Chief, Regulatory Division

Copies Furnished:

US EPA, San Francisco, CA
CA RWQCB, Oakland, CA
SF BCDC, San Francisco, CA
Citizens Committee to Complete the Refuge
Cargill, Inc